

**Letter of Findings: 01-20130649P
Individual Income Tax
For the Tax Year 2012**

NOTICE: [IC 6-8.1-3-3.5](#) and [IC 4-22-7-7](#) require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.

ISSUE

I. Tax Administration—Estimated Tax Penalty.

Authority: [IC 6-3-4-4.1](#); [IC 6-8.1-5-1](#); [IC 6-8.1-10-2.1](#); [45 IAC 15-11-2](#); I.R.C. 6654.

Taxpayers argue that the Department of Revenue should exercise its authority to abate a penalty.

STATEMENT OF FACTS

Taxpayers (husband and wife) are Indiana residents filing jointly. Taxpayers filed an income tax return for the year in question and paid the total Indiana income tax liability prior to April 15 of the next year. However, the Indiana Department of Revenue ("Department") determined that Taxpayers had not paid sufficient estimated taxes required for the year in question. The Department assessed a ten-percent penalty based on the insufficient estimated tax payments.

Taxpayers filed a protest with the Department. Taxpayers did not wish to have a hearing, but requested that the Letter of Findings be written with the information in the Department's file. Further facts will be supplied below as required.

I. Tax Administration—Estimated Tax Penalty.

DISCUSSION

Taxpayers protest the imposition of the ten-percent penalty on Taxpayers' failure to make sufficient estimated tax payments as required pursuant to [IC 6-3-4-4.1](#), which provides for a ten-percent penalty for failure to make sufficient estimated payments during the tax year.

Under [IC 6-3-4-4.1](#)(a) and (b), a taxpayer is required to make estimated payments equal to a percentage of the current year's Indiana income tax liability or the prior year's Indiana income tax liability if the taxpayer determines that the taxpayer's tax liability not otherwise paid by withholding was greater than \$1,000; otherwise, "no such declaration shall be required if the estimated tax can reasonably be expected to be less than one thousand dollars (\$1,000)." [IC 6-3-4-4.1](#)(b). The percentage requirements for the minimum estimated tax payments are set forth in I.R.C. 6654(d)(1)(B). The estimated tax payments must be made in four installments, on the dates specified by I.R.C. 6654(c). If there is an underpayment of the estimated taxes, a ten (10) percent penalty in the amount of the underpayment of the required estimated tax payments will be assessed. [IC 6-3-4-4.1](#)(b).

Under [IC 6-8.1-5-1](#)(c), "The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." An assessment – including a penalty – is presumptively valid.

Departmental regulation [45 IAC 15-11-2](#)(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." *Id.*

Penalty waiver in this situation requires a showing on the part of Taxpayers that Taxpayers had a reasonable expectation that they would not be required to pay estimated taxes. With regard to the tax year in question, Taxpayers have made a case that there was such a reasonable expectation in order for the Department to allow a waiver of the penalty. Therefore, Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

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